

## **REMARKS**

Applicants acknowledge that the amendments to the claims in the Applicants' Response dated June 9, 2003 have overcome the rejection of Claims 43 and 44 under 35 U.S.C. § 112, first paragraph, and the rejections of Claim 26 under U.S.C. § 112, second paragraph, and fourth paragraph. Accordingly, the Examiner has withdrawn the above rejections.

Applicants further acknowledge that the Office Action has withdrawn the rejections based on the so-called "admissions by applicant."

However, the final Office Action states the following:

"For the record, it is noted that if the molecular weights of Examples 1 and 2 as measured in Example 10 are in fact number average molecular weights and the molecular weight of the commercial CTBN is in error as alleged by applicant, then based upon the carboxyl numbers of the starting material and the hydroxyl numbers for the hydroxylated product, it follows that the CTBN and HTBN polymers can not have a functionality of two, i.e., on average, the CTBN and the HTBN polymers would need to be approximately monofunctional. Otherwise it would seem that applicant must also conclude that that both the carboxyl and the hydroxyl numbers are also wrong."

First, the applicants did not allege that "the molecular weight of the commercial CTBN is in error." This is a distortion of what the applicants stated. The Applicants stated the following:

" Applicants point out that the molecular weights of the commercial CTBN, which is the starting materials provided by the manufacturer, have molecular weights of 3,800 provided by the manufacturer and are measured by the old and generally

not very reliable method of **Vapor Pressure Osmometry (VPO)** (see page 20, lines 1-5, of the present specification).

In contrast, the molecular weights of the HTBN's of Examples 10 and 11, which are the products of the hydroxyalkylation process according to the present invention, were measured using a more modern and the more reliable method of **Size Exclusion Chromatography**, using a **polystyrene standard** to calibrate the system. The molecular weights of the HTBN's of Examples 10 and 11, are Number Average Molecular Weights, which are compared with the Number Average Molecular Weight of commercial HTBN, also determined by the applicants using Size Exclusion Chromatography, with polystyrene standard (see pages 26-27, of the present specification).

Thus, the two methods described above do not produce the same numbers for the measured molecular weights. However, the comparison was used to indicate that Molecular Weight of the products of the hydroxyalkylation process according to the present invention, were comparable to that of the commercial HTBN provided by the manufacturer (see pages 26-27, of the present specification)."

Thus, the applicants did not allege that "the molecular weight of the commercial CTBN is in error." The numerical value of molecular weight of a polymer depends on the method used to determine the molecular weight of the polymer. The values obtained for a molecular weight by one method would be very different than the values obtained for the same polymer by a different method. The fact that these numbers are different does not mean that one is correct and the other is in error. Thus, in order to compare two polymers, one must compare two molecular weights that are determined by the **same** method.

Second, the manufacturer of the commercial CTBN reports that the commercial CTBN has a Number Average Molecular weight of 3,800 as determined by Vapor Pressure Osmometry (VPO) and has a functionality of 1.9 (see page 20,

lines 1-5, of the present specification). What logic is being applied to arrive at the conclusion that the commercial CTBN must be monofunctional is not clear to the Applicants. It appears that the logic used in the Office Action is faulty. These numbers are provided by the manufacturer. The values obtained for a molecular weight by one method would be different than the values obtained for the same polymer by a different method. Therefore, the fact that these numbers are different does not mean that one is correct and the other is in error, as alleged by the Office Action. The comparison was used only to indicate that Molecular Weight of the products of the hydroxyalkylation process according to the present invention, were comparable to that of the commercial HTBN provided by the manufacturer (see pages 26-27, of the present specification).

Regarding the hydroxyl numbers and the acid numbers of the HTBN, on page 27, line 8 to page 28, line 6, the present specification states the following:

"Hydroxyl Number

We also determined the hydroxyl number for HTBN prepared by the process of the present invention and its commercial counterpart. The hydroxyl number is a measure of the concentration of hydroxyl groups on the polymeric structure and is desirable to ensure that the stoichiometric equivalent of diisocyanate be employed in the production of the block-prepolymer intermediate. Hydroxyl numbers were determined here by standard titration techniques and are reported here as mg of KOH/g of polymer.

We found the commercial HTBN to possess a hydroxyl number of 22.7 and the HTBN prepared from ethylene carbonate in Examples 1 and 2 supra to possess a hydroxyl number of 22.2 and 21.4.

Acid Numbers

The acid number is the amount of free carboxylic acid and is used to determine residual unreacted acid at the completion of the reaction. It is desirable for the HTBN to have a low acid number, particularly when the HTBN is to be used to prepare urethane resins, because acid functionalized polymers (e.g., CTBN) react only slowly and incompletely with isocyanates. We found the process of the present invention to provide materials essentially free of carboxylic acid functionality, which compares favorably with values obtained from commercial HTBN.

In order to determine the acid number of the HTBN, we used standard titration techniques and reported the values as mg of KOH/g of polymer. The HTBN prepared by the process of the present invention exhibited an acid number of less than 0.1, whereas the commercial HTBN exhibited an acid number of about 2.6. Thus, it is seen that with respect to invention acid conversion, the process of the present provides greater than a twenty fold decrease in residual acid, which results in a cleaner urethane product and is desirable to ensure that the stoichiometric equivalent of diisocyanate be employed in the production of the block-prepolymer intermediate."

The Office Action states the following unsupported conclusion without presenting any facts or proof or describing any method of calculation or describing the logic behind such clearly erroneous conclusion:

"... if the molecular weights of Examples 1 and 2 as measured in Example 10 are in fact number average molecular weights and the molecular weight of the commercial CTBN is in error as alleged by applicant, then based upon the carboxyl numbers of the starting material and the hydroxyl numbers for the hydroxylated product, it follows that the CTBN and HTBN polymers can not have a functionality of two, i.e., on average, the CTBN and the HTBN polymers would need to be approximately monofunctional. Otherwise it would seem that applicant must also conclude that that both the carboxyl and the hydroxyl numbers are also wrong."

The manufacturer of the commercial CTBN reports that the commercial CTBN has a Number Average Molecular weight of 3,800 as determined by Vapor Pressure Osmometry (VPO) and has a functionality of 1.9 (see page 20, lines 1-5, of the present specification). Whatever logic being applied by the Office Action to arrive at the conclusion that the commercial CTBN must be monofunctional would have to be faulty, unless the Office Action suggests a plausible explanation as to why "applicant must also conclude that that both the carboxyl and the hydroxyl numbers are also wrong."

Applicants point out that information on the functionality and molecular weight of carboxyl terminated butadiene acrylonitrile copolymers (CTBN) and the corresponding hydroxyl terminated butadiene acrylonitrile copolymer derivatives (HTBN) as well as the structure and properties of CTBN are summarized by the manufacturer in an article by Y. Okamoto: *Polymer Engineering and Science* **1983**, 23 (4), 222 (copy enclosed).

These materials were developed and sold by B. F. Goodrich under the trade names of Hycar reactive liquid polymers. Several grades with varying acrylonitrile content were available. The examples in the present application were based on CTBN grade 1300X31 and its derivative HTBN grade 1300X29, which contain 10% acrylonitrile. Hycar 1300X31 (CTBN) is currently available as a commercial product, whereas Hycar 1300X29 (HTBN) was withdrawn from the market several years ago.

The properties of CTBN materials are described in a product brochure published by B. F. Goodrich entitled "Hycar Reactive Liquid Polymers". In this brochure CTBN 1300X31 is described as a carboxyl terminated butadiene acrylonitrile copolymer having a functionality of 1.9, a number average molecular weight (Mn) of 3,800 and an acid number of 28.

The synthesis and production of CTBN, HTBN and related polymers are disclosed in several patents assigned to B. F. Goodrich including U.S. Patents Nos.

3,285,949 (1966); 3,551,472 (1970); 3,712,916 (1973) and 4,444,692 (1984). It is clear from data in these patents that the products are essentially difunctional. For example, U.S. Patent No. 3,551,472, column 1, lines 53-58, states the following:

"It has now been discovered that it is possible to readily convert these carboxyl terminated liquid polymers to hydroxyl terminated liquid polymers with a high degree of difunctionality, i.e. practically 2, indicative of the fact that a hydroxyl group is located at each end of the polymer chain."

U.S. Patent No. 3,551,472 further describes, in column 2 lines 28-39, the use of calibrated vapor phase osmometry (VPO) to determine Mn of the polymers and the determination of polymer functionality from Mn and the functional group equivalence as determined by titration with standardized potassium hydroxide solution.

It is clear from the above that **there is no reason to doubt the manufacturer's numbers of the commercial CTBN** when the manufacturer reports that the commercial CTBN has a Number Average Molecular weight of 3,800 as determined by Vapor Pressure Osmometry (VPO) with a functionality of 1.9. Further, there is no reason to doubt the molecular weights reported in the present application by the inventor (1) of the HTBN's of Examples 10 and 11, which are Number Average Molecular Weights, and (2) the Number Average Molecular Weight of commercial HTBN, also determined by the applicants using Size Exclusion Chromatography, with polystyrene standard for comparison (see pages 26-27, of the present specification), unless there is a good and sufficient basis for concluding otherwise.

Therefore, for the record, Applicants herewith request that the Examiner describe **in detail** how such a conclusion was arrived at, describing the method used and the calculations carried out, and further, explaining the logic behind such a

conclusion backing it with proof. Absent such detailed analysis, Applicants respectfully request that the Examiner withdraw the above statements on record.

Applicants have amended claim 23 by defining that the " dihydroxyl-functionalized material has a molecular weight that is substantially unchanged relative to the molecular weight of said dicarboxylic acid-functionalized starting material."

The Office Action dated February 7, 2003 has stated that in the present invention the molecular weights of the polymers remain essentially unchanged.

Applicants accept the conclusion that the molecular weights of the polymers remain **substantially unchanged** during the hydroxyalkylation process according to the present invention, as shown clearly on pages 9 and 12 of the specification, which has been referred to by the Examiner on page 3 of the present Office Action dated February 7, 2003 as follows: "...the specification at pages 9 and 12 cited by the applicant clearly contemplate the molecular weights being the same,..."

Applicants have amended claim 23 to indicate that dihydroxyl-functionalized material has a molecular weight that is **substantially unchanged** relative to the molecular weight of the dicarboxylic acid-functionalized starting material, as it has been shown clearly on pages 9 and 12 of the specification and concluded by the Examiner on page 3 of the Office Action dated February 7, which concedes that the applicants have indeed shown that the hydroxyalkylation process according to the present invention is carried out without substantially increasing the molecular weights of the starting materials.

Claims 23-28, 31, 34-37 and 43-44 are rejected under 35 U.S.C. §103(a) as being allegedly obvious over Okamoto in view of Merck Index, Wu and/or Yoshino, in further view of Wu or Yoshino.

The Office Action has continued to apply an improper rejection of the previous Actions. Further, claim 44 continues to be rejected despite being cancelled.

The above 35 U.S.C. §103(a) rejection in the present Office Action is an "omnibus" rejection, and as such, is improper because the combination of the references relied upon for the rejection is unclear, confusing and in part meaningless.

|         |                   |               |                           |           |
|---------|-------------------|---------------|---------------------------|-----------|
| Okamoto | <u>in view of</u> | Merck Index   | <u>in further view of</u> | Wu        |
|         |                   | Wu            |                           | <u>or</u> |
|         |                   | <u>and/or</u> |                           | Yoshino   |
|         |                   | Yoshino       |                           |           |

The 35 U.S.C. §103(a) rejection based on above combination of references requires "Wu" to be "in further view of" itself. Further, the combination requires "Yoshino" to be "in further view of" itself.

Accordingly, the rejection of claims 23-28, 31, 34-37 and 43-44 under 35 U.S.C. §103(a) as allegedly being obvious over Okamoto in view of Merck Index, Wu and/or Yoshino, in further view of Wu or Yoshino is unclear, confusing and in part meaningless, and thus, improper.

Applicants acknowledge the withdrawal of the "admissions by applicant" from the cited art combination but maintaining the "Merck Index" disclosure as being the basis of the "toxicity" of the ethylene oxide.

Applicants have presented arguments against the above rejection before. The arguments are presented herein in greater detail again as follows:



The rejection relies upon Merck Index disclosure that ethylene oxide is "toxic" as its centerpiece to compensate for the lack of motivation to combine references that are as disparate as Okamoto with Wu or Yoshino.

Applicants have pointed out before and repeat it here that Okamoto does not suggest to modify Wu and/or Yoshino to produce the instantly claimed invention defined by claim 23, as amended.

Further, Wu does not suggest to modify Okamoto and/or Yoshino to produce the instantly claimed invention defined by claim 23, as amended.

Still further, Yoshino does not suggest to modify Wu and/or Okamoto to produce the instantly claimed invention defined by claim 23, as amended.

Without such a suggestion to modify one or more references, neither Okamoto, Wu, Yoshino, nor any combination thereof suggests to modify the remaining references to produce the instantly claimed invention defined by claim 23, as amended herein.

To properly combine two or more references, there must be a teaching or a suggestion **in at least one of the references** to combine with **each of the remaining references** to provide motivation for a person of ordinary skill in the art to combine.

The Office Action erroneously states that this requirement is met by the "Merck Index" disclosure, which states that ethylene oxide is a toxic chemical. This information, the Office Action contends, would be sufficient for a person of ordinary skill in the art to be motivated to select one or more of the references and combine with the remaining references to produce the instantly claimed invention defined by claim 23, as amended herein.

However, neither Okamoto, Wu, Yoshino, nor any combination thereof suggests to modify the remaining references by using a less toxic material in combination with Okamoto, Wu and/or Yoshino to produce the process of the instantly claimed invention defined by claim 23, as amended herein, which process has the advantage of employing a relatively non-toxic starting material, such as, an alkylene carbonate.

The "Merck Index" disclosure relied upon by the present Office Action is based on a statement of advantages of the present invention over the methods of the prior art. The present application states that ethylene carbonate, which is the reagent employed as the hydroxylating agent in the present invention, has the advantage of being a low toxicity reagent relative to ethylene oxide, which has relatively high toxicity. The Office Action goes on to conclude, incorrectly in our view, that a person of ordinary skill in the art would have sufficient **motivation to combine** the cited references to arrive at the process defined by the instant claims, simply because one reagent is a reagent that has lower toxicity relative to ethylene oxide.

Not even the "Merck Index" disclosure suggests that ethylene oxide could be replaced with a less toxic starting material, such as, an alkylene carbonate.

Thus, **none of the four cited references teaches or suggests how to modify the various processes described in the remaining references** to arrive at the process defined by claim 23, as amended herein.

More specifically, there is no suggestion in any combination of the four cited references that provide motivation for a person of ordinary skill in the art to:

- (1) replace ethylene oxide with ethylene carbonate; and
- (2) further replace a tertiary amine catalyst with a phase transfer catalyst.

To suggest that the four cited references can be combined in some fashion by a person of ordinary skill in the art to produce the instantly claimed invention, which is defined by claim 23, as amended herein, **the Office Action has been forced to utilized hindsight reconstruction to fashion a motivation to combine.**

The instant claims are rejected as being obvious over an "advantage" described in the present application, with a requirement to combine that advantage with four additional references, none of which teaches or suggests how to modify the various processes described in the remaining references to arrive at the process defined by the instant claims.

In the instant application, replacement of the ethylene oxide/tertiary amine catalyst by a carbocyclic carbonate/phase transfer catalyst in the process of Okamoto is not taught or suggested by any of the cited art or any combination thereof. Thus, a combination of references without a specific suggestion or a teaching to modify the references in a manner that would produce the instantly claimed invention cannot form the basis for a rejection except, as it is in the present case, by **hindsight reconstruction**.

Regarding the toxicity of ethylene oxide, the Office Action alleges that, because ethylene oxide is a hazardous material, it would be undesirable to use it as a reactant. This assumption is derived from the statement of advantages of the present invention over the methods of the prior art. It is not taught or suggested by any of the references.

The "Merck Index" disclosure does not suggest that ethylene oxide could be nor should be replaced with a less toxic starting material, such as, an alkylene carbonate. The Office Action incorrectly assumes that, because ethylene oxide is rather hazardous, a person of ordinary skill in the art would **automatically** want to replace it with a less hazardous reactant. Based on this erroneous assumption, the

Office Action concludes that a person of ordinary skill in the art upon learning that a starting material is hazardous, would be motivated to embark on a search for an alternative. This assumption is incorrect for the following reasons:

(1) nearly all chemicals used in the chemical industry, including ethylene oxide, are toxic to one degree or another to humans, animals and the environment;

(2) despite the toxicity, millions of pounds of ethylene oxide are produced annually by the chemical industry;

(3) ethylene oxide is very attractive starting material because it is inexpensive;

(4) ethylene oxide does not produce any by-products, such as,  $\text{CO}_2$ , that requires disposal, as would be required if ethylene oxide were replaced with an alkylene carbonate; and

(5) hydroxyalkylation of a carboxyfunctional material using an alkylene carbonate, such as, ethylene carbonate, as the hydroxyalkylating agent, only 50% of the weight of the ethylene carbonate would be added to the carboxyfunctional material, with the remaining 50% being lost as  $\text{CO}_2$ , a by-product. Because ethylene carbonate is so much more expensive than ethylene oxide, the 50% weight loss, which would lead to doubling the raw material cost, would likely quadruple the manufacturing cost. In view of such a dramatic increase in cost, a person of ordinary skill in the art would not only **have no motivation to replace ethylene oxide** with ethylene carbonate, but **would be motivated to avoid replacing ethylene oxide altogether.**

Clearly, a person of ordinary skill in the art would not be motivated to look for a replacement for ethylene oxide simply because of its toxicity. The mere fact that a chemical is hazardous is not, in and of itself, a suggestion to replace ethylene oxide

with another chemical, particularly in the present case, because ethylene oxide is an inexpensive hydroxyalkylating agent. The “added cost to provide the necessary safety and protection” argument previously advanced by the Examiner is not persuasive because ethylene oxide is so inexpensive that safety costs would not be sufficient to offset the higher cost of alternative reagents. Accordingly, Applicant points out that the recognition of the advantages of the present invention does not fulfill the necessary motivation requirement to look for alternatives or to combine Okamoto with Wu or Yoshino.

In support for the above, Applicant has submitted a Declaration under 37 C.F.R. § 1.132 in response to the multi-reference rejections to show that a person of ordinary skill in the art would not be motivated to replace ethylene oxide with ethylene carbonate.

More specifically, the Declaration states that nearly all chemicals used in the chemical industry, including ethylene oxide, are toxic to one degree or another. Despite this, millions of pounds of ethylene oxide are produced and used annually by the chemical industry. Thus, one would not automatically replace ethylene oxide for being hazardous. As mentioned above, ethylene and propylene oxides are so inexpensive that any added safety costs associated with their use would be insufficient to offset the higher cost of ethylene and propylene carbonates and thus, would not provide sufficient motivation to replace ethylene oxide with ethylene carbonate.

In addition, the molecular weight of ethylene carbonate is twice the molecular weight of ethylene oxide. In the hydroxyalkylation of a carboxyfunctional material using ethylene oxide as the hydroxyalkylating agent, 100% of the weight of the ethylene oxide would be added to the carboxyfunctional material, so that all of the hydroxyalkylating agent is retained in the reaction product without any loss of material.

In sharp contrast, in the hydroxyalkylation of a carboxyfunctional material using ethylene carbonate as the hydroxyalkylating agent, only 50% of the weight of the ethylene carbonate is added to the carboxyfunctional material. The remaining 50% is lost as CO<sub>2</sub>, a by-product that requires disposal. Thus, the 50% weight loss and doubling the raw material cost would quadruple the raw material costs, so that a person of ordinary skill in the art would not have motivation to replace ethylene oxide with ethylene carbonate.

The instant claims are rejected as being obvious over an "advantage" described in the present application, with a requirement to combine that advantage with four additional references, none of which teaches or suggests how to modify the various processes described in the remaining references to arrive at the process defined by the instant claims.

Applicant points out that recognition of an advantage, which typically occurs either concurrent with or post-invention, does not provide a person of ordinary skill in the art motivation to modify one or more references to achieve that advantage. The instant claims are rejected as being obvious over an "advantage" described in the present application, with a requirement to combine that advantage with four additional references.

The recognition by applicants of an advantage, which typically occurs either concurrently with or at a post-invention stage, does not provide a person of ordinary skill in the art motivation to modify one or more of the remaining four cited references to achieve that advantage. Thus, recognition by applicants of an advantage that the instant process provides, which solves a problem of the prior art, such as, replacement of a toxic starting material with a less toxic starting material, is in itself inventive. Recognition of the source of a problem is in fact sufficient to serve as one of several indicia for non-obviousness.

Further, ability to control the molecular weight of the hydroxyalkylated final

product is advantageous for producing a useful hydroxyalkylated final product. The process according to the present invention provides means for controlling the molecular weight of the hydroxyalkylated final product produced and, as a result, avoids extensive resin extension. This is an unexpected result not taught or suggested by any of the cited references or any combination thereof.

The absence of excessive resin extension in the dihydroxyl-functionalized material, is an important aspect of the present invention because low fusible-materials and block prepolymer resins prepared from HTBNs and organic diisocyanates are constrained by the permissible molecular weights of the reactants to achieve appropriate physical properties in the final product. High molecular weight materials would not be useful in the compositions of the present invention.

Applicants have amended claim 23 by defining that the "dihydroxyl-functionalized material has a molecular weight that is substantially unchanged relative to the molecular weight of said dicarboxylic acid-functionalized starting material." Thus, claim 23, as amended, incorporates this surprising and unexpected characterization so that **claim 23 is allowable at least for this reason alone.**

As mentioned previously, the toxicity of a chemical alone is insufficient to provide the requisite motivation, which is missing in the above-cited references, to replace ethylene oxide with ethylene carbonate and further replace the tertiary amine catalyst with a phase transfer catalyst and still further, replace the various carboxylic acid starting materials with a dicarboxylic acid-functionalized polymer of polybutadiene, poly(butadiene-co-acrylonitrile), poly(acrylonitrile) or a combination thereof to prepare a dihydroxyl-functionalized material.

Therefore, the rejection of claims 23-28, 31, 34-37 and 43-44 under 35 U.S.C. §103(a) as being obvious should be withdrawn and claims 23-28, 31, 34-37 and 43 should be allowed.

Claim 25 rejected under 35 U.S.C. §103(a) as being allegedly obvious over Okamoto in view of alleged admissions of applicant, Merck Index, Wu and Yoshino, in further view of Wu or Yoshino and further in view of admissions by applicant.

As shown above for the first 35 U.S.C. §103(a) rejection, this rejection is not proper for the same reasons, i.e., for being an "omnibus" rejection that is further compounded by having a "further in view of admissions by applicant."

On the one hand, the Office Action has withdrawn the rejections based on the so-called "admissions by applicant." On the other, as seen herein above, the Office Action still has applied a rejection based on the so-called "admissions by applicant." Accordingly, Applicants request that the rejections based on "admissions by applicant" withdrawn.

Applicants have responded to the issue of the characterization of the starting material by the manufacturer and made it abundantly clear that the molecular weights claimed are correct. Claim 25 merely limits the dicarboxylic acid-functionalized starting material to polymers that have a number average molecular weight of from about 3,100 to about 4,200. Accordingly, claim 25 is also allowable by virtue of its dependency from claim 23.

Even if all the elements of a claim are described in separate references, there has to be provided a teaching or a suggestion in the references to provide motivation for a person of ordinary skill in the art to combine the references in question. Thus, a showing of motivation is one of the essential requirements that must be met to establish a *prima facie* case of obviousness (see MPEP § 2142 and *In re Rouffet*, 47 USPQ 2d at 1457-1458).

Applicants have addressed the lack of motivation for a person of ordinary skill in the art to combine the references in question pointing out that the Office Action incorrectly assumes that, because ethylene oxide is rather hazardous, a person of



ordinary skill in the art would automatically want to replace it with a less hazardous reactant.

Applicants have also shown that this assumption is incorrect because:

- (1) nearly all chemicals are toxic to some degree;
- (2) millions of pounds of ethylene oxide are produced and used annually despite its toxicity;
- (3) ethylene oxide is inexpensive;
- (4) ethylene oxide does not produce any by-products, such as, CO<sub>2</sub>; and
- (5) about 50% of the ethylene carbonate is lost as CO<sub>2</sub>, thereby dramatically increasing the manufacturing cost.

In view of the foregoing, a person of ordinary skill in the art would not be motivated to replace ethylene oxide with ethylene carbonate. Instead, such a person, through the knowledge of a person of ordinary skill in the art, would avoid replacing the ethylene oxide.

Absent a teaching or suggestion to provide motivation to combine, the cited references are not properly combinable because a person of ordinary skill in the art would not be able to arrive at the claimed invention except through either extensive experimentation or impermissible hindsight.

In the absence of a teaching or a suggestion of the desirability of such a replacement, the cited references alone or in combination do not render the claims of the instant invention obvious (see MPEP 2143.01). Thus, the criteria for establishing

a *prima facie* case of obviousness have not been met (see MPEP 2143, citing *In Re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir. 1991)).

Based on the foregoing, withdrawal of the Rejections of pending claims is requested and indication of their allowability is respectfully solicited.

Respectfully submitted,

Date: October 14, 2003

By: V. Alexanian  
Vazken A. Alexanian  
Registration No. 37,270  
Ohlandt, Greeley, Ruggiero  
& Perle, L.L.P.  
One Landmark Square, 10th Floor  
Stamford, Connecticut 06901-2682  
Telephone: (203) 327- 4500  
Telefax: (203) 327- 6401